

# Will VT Honor Canadian Gay Marriages?

BY EUAN BEAR

**V**ermont, which has a civil union system that is legally the same as marriage, seems sure to recognize Canadian marriages."

Or so says a press release from the American Civil Liberties Union, which last month issued a guide for American same-sex couples who are considering going to Ontario or British Columbia to get married.

Courts in both provinces have declared that the restriction of marriage to one man and one woman violates the rights and offends the dignity of same-sex couples. Other Canadian provincial courts have issued similar rulings, but held their implementation in abeyance to allow the Canadian federal government time to address the issue in Parliament.

Vermont Deputy Secretary of State Bill Dalton did not dispute the assertion when asked about it, but said that essentially, we won't know the answer "until something goes wrong, when a same-sex couple who married in Canada decides they need to part company" and seeks a dissolution of their marriage in Vermont.

But, he reiterated, "The issue has not yet been joined. Further legislative or judicial action is needed," to clarify the issue.

When a state agrees to recognize contracts and licenses from the other 49 states, including marriages, it's called "full faith and credit." When a country agrees to recognize other countries' licenses and contracts, the legal concept is called "comity." The U.S. generally has comity with Canada.

But the U.S. also has a "Defense of Marriage Act," which denies federal recognition to same-sex marriages and relieves individual states of any duty to honor the "full faith and credit" clause of the U.S. Constitution in regard to same-sex marriages.

Dalton noted that so far as he knows, neither a civil union nor an Ontario same-sex marriage has been successfully used to get a green card (work and residence permit) from the Immigration and Naturalization Service for a non-American spouse.

"Nothing under Vermont law currently prohibits recognition of Canadian marriages – or any marriage from another country," said Rep. Bill Lippert, one of the key architects of the civil union bill in the 2000 legislature. "Why should this be any different?"

Lippert was cautious about fueling any drive toward a Vermont DOMA (state Senator Julius Canns, R-Caledonia, has already filed a bill to amend the Vermont constitution to define marriage as between a man and a woman). But in his musing aloud, Lippert wondered whether Vermonters already in a civil union would be allowed to marry in Canada and then bring that marriage certificate home.

A query to the Vermont Department of Taxes about whether Vermont same-sex couples married in Canada would be able to file as married filing jointly first elicited a laugh, then a long period on hold while an answer was sought. A Vermont Tax Examiner who asked not to be named said that such couples could file as civil union joint or individual.

Filing under the civil union joint designation requires double computation of taxes – once for each partner as single for federal taxes, then as "married" in order to calculate the Vermont income tax liability. Same-sex couples who file under the civil union joint designation are required to file copies of both sets of federal tax paperwork. Sex-discordant married couples are not subject to any additional paperwork.

Asked why Vermont same-sex couples married in Canada couldn't just file as

"married," the examiner said, "Well, it's because of our laws. They have to file as civil union because it's the only way to identify that they're a same-sex couple, because their names might not be the same or some guys, I guess, have girls' names." When the extra paperwork and tax expense were pointed out, the examiner said, "The rates for civil union joint are the same as for married joint."

Attorney Susan Murray, who with Beth Robinson represented the *Baker v. State* couples in the case that won civil union legislation, believes that Vermont will follow Canada's lead "within a decade."

Murray continued, "There is nothing in Vermont law that declares that a same-sex marriage lawfully entered into outside Vermont is not to be recognized in Vermont. If a same-sex couple gets married in Vermont and then comes to Vermont, I would hope that the State of Vermont would respect the validity of that marriage, just like it would respect the validity of a Canadian marriage between a man and a woman. That is the right thing to do, but at this point we simply don't know how the State would respond."

Stay tuned. ▼

## Leahy Introduces Gay Partners Immigration Act

BY PAUL OLSEN

**T**he immigration of international partners of gay and lesbian Americans will be eased if legislation recently introduced in the United States Senate by Sen. Patrick Leahy (D-VT) becomes law.

By adding new language to the federal Immigration and Nationality Act, the Permanent Partners Immigration Act (PPIA) would treat same-sex domestic partners the same as heterosexual spouses for purposes of immigration rights and benefits.

According to Leslie Holman, a Burlington-based attorney specializing in immigration law, passage of the PPIA is needed. "It is an issue I would like to see passed as soon as possible," she told *OITM*.

"Someone who can come into this country and enter into a valid marriage with a United States citizen is entitled to immigration benefits," Holman said. "Same-sex partners, despite the length of their partnership, cannot get those same benefits. If a partner cannot gain benefits another way, like through employment, it is a really tough situation. It is something that would really benefit many of my [gay and lesbian] clients."

Leahy said he introduced the PPIA to help gay and lesbian families. "Our immigration laws treat gays and lesbians in committed relationships as second-class citizens, and that needs to change," he said when introducing the bill. "This bill would add America to the growing list of nations that extend immigration benefits to same-sex couples. It is the right thing to do for the people involved, it is the sensible step to take in the interest of having a fair and consistent policy, and I hope that the Senate will act."

A draft of the bill states the PPIA is designed to "provide a mechanism for United States citizens and lawful permanent residents to sponsor their permanent partners for residence in the United States." The bill defines "permanent partner" as an individual who is age 18 or older, unmarried, and in a financially interdependent, committed, lifelong intimate relationship with another individual age 18 or older.

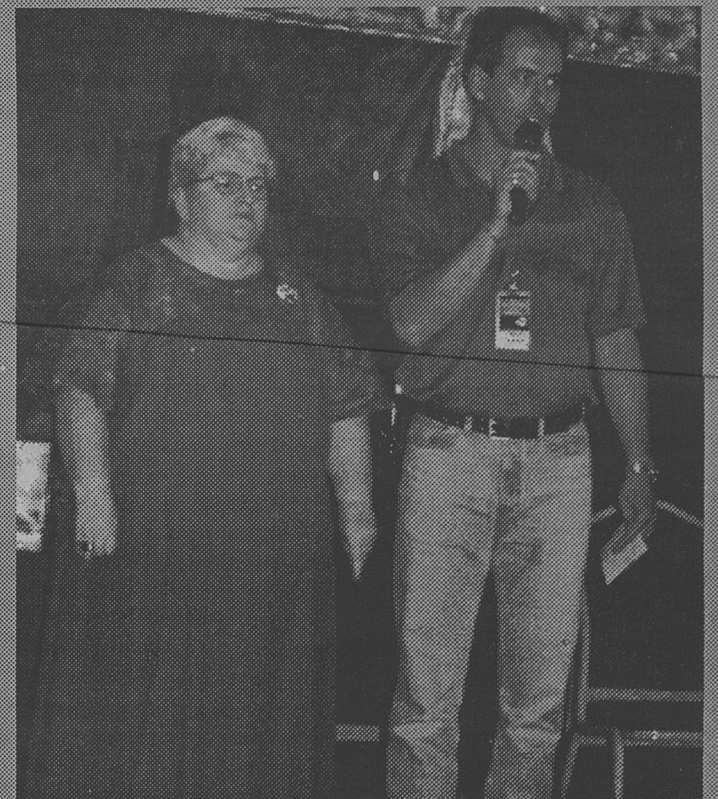
In addition to Leahy, the Senate version of the PPIA is co-sponsored by a number of New England senators including Edward Kennedy (D-MA), John Kerry (D-MA), and James Jeffords (I-VT). Kerry is seeking the Democratic Party's nomination in the 2004 presidential election.

Representatives of the Human Rights Campaign (HRC), a Washington DC-based gay advocacy group, praised Leahy's introduction of the PPIA. "We applaud Senator Leahy for leading the effort in the Senate to ensure that federal law protects families instead of tearing them apart," the HRC's political director, Winnie Stachelberg, said in a press release. "We urge the Senate to pass this important measure that would end discrimination in federal law cruelly forcing the separation of loving and committed couples solely because they are gay or lesbian."

According to the HRC, 15 countries – including Canada, Denmark, Israel, South Africa, France, and the United Kingdom – recognize same-sex couples in immigration policy.

A House version of the Permanent Partners Immigration Act, introduced earlier this year by U.S. Rep. Jerrold Nadler (D-NY), has 116 sponsors including Rep. Barney Frank (D-MA), Rep. Patrick Kennedy (D-RI), Rep. Michael Michaud (D-ME), Rep. Bernie Sanders (I-VT), and Rep. Rob Simmons (R-CT). ▼

Paul Olsen also writes for *In* Newsweekly.



The Baroness of All Vermont's new Baroness Ariel (a.k.a. "Mom") accepts a \$500 donation for the American Cancer Society at its August Adornment. The event raised at least \$4000 dollars as Baron Kristoff stepped down and Baroness Ariel assumed leadership. The net proceeds, still in the accounting process at press time, will be split between Mountain Pride Media and R.U.1.2? Community Center.